

REMARKS

Claims 22 and 30 have been amended. Claims 22-23 and 25-33 are currently pending. Entry of the amendments, and reexamination and allowance of the pending claims are respectfully requested.

Claims 22, 27-30, 32 and 33 stand rejected under 35 U.S.C 103(a) as being unpatentable over USP 5,678,684 to Wright ("Wright") in view of USP 6,135,842 to LaFata ("LaFata"). This rejection is respectfully traversed.

Claims 22 and 30 are independent.

The Examiner relies on FIG. 9 of Wright, but then acknowledges that FIG. 9 of Wright fails to disclose the following limitations:

1. a lid pivotably coupled to the top wall (claim 22);
2. a stopper positioned inside the tube, the stopper having a shaft having a first end and a second end, with a serrated bubble ring provided at the first end and a support section provided at the second end, wherein a lining is provided around a portion of the support section (claims 22 and 30); and
3. the lining is rubber (claim 30).¹

Claim 22

To compensate for these missing limitations in Wright, the examiner:

1. takes official notice that a pivoting connection for a lid is well-known in the art; and
2. relies on FIG. 1C of LaFata to disclose the limitations relating to the stopper.

Applicant respectfully submits that this rejection is incorrect because (i) even the proposed combination of Wright and LaFata (as set forth above) will not yield the claimed invention, and (ii) the teachings in Wright do not allow for the modifications proposed by the examiner.

First, claim 22 recites a serrated bubble ring. LaFata does not teach or suggest any serrations on his bubble rings. When this missing limitation is considered together with the lack of the pivoting lid (which the examiners relies on official notice), it is clear that the proposed combination of Wright and LaFata still falls very short of reaching the

¹ Interestingly, these missing limitations make up more than half of each claim.

claimed invention.

Second, Wright's container cannot be modified in the manner suggested by the examiner because Wright's teachings and applications are very different from those in LaFata. In this regard, Wright is directed to a container for holding paints, colored dyes, inks and liquids having similar viscosity. The container 100 has a barrier member 160 which the examiner asserts to correspond to the claimed "tube". The barrier member 160 is described as being an absorbent sponge material, so that if the container 100 is tipped over, the barrier member 160 would absorb paint before the paint can exit the container 100. See column 3, line 49 to column 4, line 39. In addition, elements 560 and 660 referred to by the examiner are sponge barrier members. See column 5, lines 33-56. Wright also discloses that its container 100 is intended to receive paint brushes. See column 4, line 30.

In contrast, LaFata is directed to a bubble device and container that holds bubble solution. Bubble solution is very different from paint, and have different viscosities. Therefore, a person skilled in the art would have no reason to consider the teachings of Wright when looking for a non-spill container for use with bubble solution.

To further distinguish Wright, Applicant has amended claim 22 to recite that the container body contains bubble solution. And to further distinguish LaFata, claim 22 has been amended to recite that the lining is received inside the tube. In contrast, the sealing member 38 in LaFata is not received inside any tube, but is instead fitted in a groove or slot formed in the top portion 16 (see FIGS. 1A and 1B). In light of these amendments, a person skilled in the art would need to make the following modifications to arrive at the claimed invention of claim 22 if he/she started with Wright:

- (i) Provide a pivoting lid;
- (ii) Add the stopper of FIG. 1C of LaFata to Wright's assembly;
- (iii) Position the stopper with the lining inside the tube;
- (iv) Add serrations to the stopper of FIG. 1C of LaFata; and
- (v) Add bubble solution to the container.

Applicant submits that it would require impermissible hindsight reconstruction to cobble together these four modifications. In other words, the only way in which a person skilled in the art can arrive at the claimed invention is by knowing the elements of the claimed invention, and then deconstructing these elements in a piecemeal fashion. For example, the Federal Circuit case law requires that there must be a suggestion in the prior art (or it must be common knowledge) to make each of these modifications, but where are the

suggestions for these four modifications:

1. For (i), the examiner has taken "official notice", alleging that a pivoting lid is "common knowledge" or a well-known equivalent for a threaded lid. But given the construction of the container 100 in Wright, and in particular, the circular configuration of the top wall 140, it would be very difficult to attach a pivoting connection for a lid to the top wall 140.

2. For (ii), where is the incentive to insert the stopper of FIG. 1C of LaFata into the container 100 of Wright? Wright discloses that its container 100 is intended to receive paint brushes, but the stopper of FIG. 1C of LaFata is not a paint brush.

3. For (iii), LaFata expressly discloses that the sealing member 38 in LaFata is not received inside any tube, but is instead fitted in a groove or slot formed in the top portion 16. Therefore, there is no suggestion to make the proposed modification.

4. For (iv), where is the suggestion to provide serrations to the stopper of FIG. 1C of LaFata?

5. For (v), why would anyone want to add bubble solution to the container 100 in Wright when Wright is expressly directed to paint and liquids with similar viscosity?

Thus, claim 22, and claims 23 and 25-29 depending therefrom, are submitted to be in condition for allowance.

Claim 30

Amended claim 30 is very similar to claim 22, except that claim 30 does not recite a pivoting lid, but recites that the lining is rubber. Thus, all the arguments set forth above for claim 22 (other than for the pivoting lid) apply to claim 30 as well. In addition, LaFata does not teach or suggest any rubber linings, and this is an additional modification that would need to be made to reach the claimed invention. Thus, claim 30, and claims 31-33 depending therefrom, are submitted to be in condition for allowance.

In light of the above reasons, all pending claims are submitted to be in condition for allowance. The Examiner is encouraged to telephone the undersigned if the Examiner has any proposed amendments or informalities that can be resolved in a phone interview.

Respectfully Submitted,



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